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SUBJECT: AMBASSADOR DISCUSSES NORTHERN PIPELINES WITH
ENERGY MINISTER EFFORD

11. (U) Sensitive but unclassified. Not for distribution outside USG channels.

12. (SBU) Summary: The Ambassador paid a courtesy call December 14 on Minister of Natural Resources John Efford, reviewing a range of topics relating to plans for natural gas pipelines from Alaska's North Slope and Canada's Mackenzie Valley. Regarding the Alaska pipeline, Minister Efford said that any move to issue construction permits for the Canadian portion of the line that did not recognize TransCanada PipeLine Ltd.'s exclusive construction "certificates" would raise a host of legal, regulatory and financial issues. As for the Mackenzie Valley project, Efford said that the issue of compensation for the Deh Cho aboriginal band is currently before the courts, and he expressed hope that the judicial process would move quickly. Minister Efford also touched on the prospects for liquid natural gas (LNG) facilities in Canada, and trilateral energy initiatives with Mexico under the North American Energy Working Group (NAEWG). He expressed hope that the Energy Secretary-designate would be able to visit Canada soon. End summary.

Alaska Gas Pipeline

13. (SBU) Meeting with the Ambassador and ESTOFF in a conference room in Ottawa's Parliament Building, Minister Efford underlined that TransCanada believes very strongly that it has, through its Foothills Pipe Lines subsidiary, exclusive "certificates of convenience and public necessity," issued in the 1970s, to construct the Canadian portion of the Alaska natural gas pipeline. The authority for the certificates is derived through the Northern Pipeline Act (NPA) of 1977, currently the only Canadian law specifically addressing the Alaska gas pipeline. Through another wholly owned subsidiary, TransCanada also holds certificates for the Alaska portion of the line under the 1976 Alaska Natural Gas Transportation Act. The U.S. portion of the line may also be built under the separate authority of the Natural Gas Act, in which case TransCanada's certificates would have no standing.

14. (SBU) Referring to a recent round of lobbying in Canada against the exclusivity of TransCanada's certificates by North Slope gas producers BP and Conoco-Phillips, Efford said that the producers yet to come up with a realistic alternative pipeline proposal (the third producer, ExxonMobil, has told us that they believe it is premature to address the certificates issue until the producers establish financial terms for the pipeline). Efford said that while the producers have voiced a general complaint that they do not want to be locked into doing business only with TransCanada, he believes that there is ample room for negotiation among all the stakeholders regarding who will build the pipeline.

15. (SBU) Efford opined that any challenge to TransCanada's NPA certificates would "absolutely" provoke an immediate court challenge, as the company believes it has maintained the validity of its certificates for nearly thirty years. Efford also voiced concern that any move by Canada to revise its legislation and issue certificates to another company could force a renegotiation of the 1977 U.S.-Canada Transit Pipeline Treaty. He further noted that the environmental permitting process, always difficult in Canada, would become even more complicated if a route other than TransCanada's were to be proposed. As an aside, Efford told us that he has argued within the GOC for instituting timetables for Environmental Impact Assessments, but that writing a timetable into legislation is "almost impossible."

16. (SBU) Efford noted that the U.S. Congress inserted a "Sense of Congress" resolution in the 2004 Alaska Natural Gas Pipeline Act that the steel for the Alaska pipeline be

made in North America, but that the 52-inch pipeline favored by BP and Conoco-Phillips could only be manufactured in Asia. Efford acknowledged that the pipeline requirements have changed since 1977, when certificates were issued for a 48-inch pipeline, but said the technology for pipeline construction and operation has advanced greatly in the past 25 years. He stated that a 48-inch pipeline, manufactured in North America using modern methods, should be adequate for the pipeline's current requirements.

Mackenzie Valley and the Deh Cho Process

17. (SBU) Efford told us that the Deh Cho band is using the Mackenzie Valley gas pipeline project to gain leverage for tribal land claims. About 40 percent of the proposed pipeline's route would pass through Deh Cho lands, and the band is suing the Government of Canada to gain more representation on the pipeline review panel. Efford expressed hope that the judicial process will move quickly to resolve the Deh Cho's claim, and noted that the issue of the Deh Cho's participation has not yet led to delays in the project.

Other Energy Matters

18. (SBU) Regarding the construction of LNG projects in Canada, Efford said that the Irving Oil Company is already performing preliminary work on a new terminal in Saint John, New Brunswick. He also stated that that there is unlikely to be serious opposition to other proposed LNG terminals in Atlantic Canada. Efford said that he understood U.S. initiatives to make Mexico a full partner in North American energy issues, and that Canada supported the effort. At the conclusion of the meeting, Efford told us that he hoped the new U.S. Energy Secretary-designate would be able to visit Canada as soon as possible. The Ambassador responded that a visit might usefully include a tour of the Alberta oil sands or the James Bay hydroelectric projects in Quebec.

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